+9IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Jas Raj & Ors. v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.1352/1992
under Article 226 of the Constitution of India.

Date of Order : 23rd May, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.R.Singhvi, for the petitioners.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

BY THE COURT :

At the outset counsel for the petitioners has stated that promotion claimed has already been given to petitioner No.1 Jas Raj, therefore, the writ petition has become infructuous qua the petitioner No.1, same is dismissed to that extent.

By this petition for writ a challenge is given by the petitioners to the standing order No.5/75 issued by the Director General of Police, Government of Rajasthan prescribing general instructions for Part-II examination as prescribed under the Rajasthan Civil Services (Police Subordinate Service) Rules, 1974 (hereinafter referred to as “the Rules of 1974”).

The main contention in the petition is that under the standing order 40 marks are provided to adjudge the suitability for promotion by way of holding interview, which is arbitrary. However, at the time of hearing the counsel for the petitioners has not pressed in service any argument to challenge prescription of 40 marks referred above. Counsel for the petitioners fairly conceded that the standing order provides for 40 marks out of the maximum marks of 250 marks, that is only 16% of it and not 40% of maximum marks as stated in petition.

By an order dated 4.3.1999 a direction was given by this Court to the respondents to produce the case file of the persons particularly petitioner Jas Raj who was not found eligible for promotion along with the petitioners under an order dated 4.1.1992 but was subsequently promoted by order dated 25.1.1997. By order dated 4.3.1999 this Court also directed the respondents to file an additional affidavit showing the material on basis of which the decision taken under the order dated 4.1.1992 was changed.

In compliance of the order passed by this Court an additional affidavit sworn in by Shri Mahendra Choudhary, Additional Superintendent of Police, CID, CB, has been filed stating therein that in pursuance of an another writ petition bearing No.4474/91 all the petitioners except petitioner No.2

Vijay Ram submitted representations to the competent authorities of the respondent department, accordingly the entire record of the selection proceedings was reexamined. While reexamining the record it was found that petitioner No.1 Jas Raj was entitled for 14 marks under the head of annual remarks in service rolls but only one mark was given to him. This error was rectified, consequentially he was found eligible to be promoted and an order dated 25.1.1997 was passed promoting petitioner No.1 Jas Raj as Head Constable.

The respondents also produced original record of the entire selection proceedings pertaining to all the petitioners except petitioner No.2 Shri Vijay Ram. According to the record produced by the respondents petitioners Moinuddin, Mohanlal and Arvind Dave secured marks in the examination concerned as under:-

MARKS OBTAINED IN CONSTABLE TO HEAD CONSTABLE PROMOTION TEST-1984 (AS PER CHART PREPARED IN DECEMBER-1996

	Maximum marks	Minimum marks	Marks obtained
PETITIONER MOINUDDIN :			
Written Test	100	40%=40	52 ½
Parade & Outdoor	75	36%	29
Total of Part-I	175	45%=78.75	81 ½
Education	5	-	-
Annual remarks in	15	-	5

service rolls			
Rewards and punishment	10	-	10
Training	5	-	2
(Interview): Personality	5	-	2 ½
Turnout	5	-	2
Address & Behaviour	5	-	2 ½
Tact	5	-	2 ½
Aptitude	5	-	2
Judgment	5	-	2
Leadership	5	-	2
General Awareness	5	-	1
Total of Interview	40	-	16 ½
Total of Part-II	75	45%=33.5	33 ½
Grand Total (Part-I + Part-II)	250	50%=125	115
Result		FAIL	

PETITIONER MOHANLAL :

Written Test	100	40%=40	62
Parade & Outdoor	75	36%	31
Total of Part-I	175	45%=78.75	93
Education	5	-	3
Annual remarks in service rolls	15	-	4
Rewards and punishment	10	-	10
Training	5	-	-

(Interview): Personality	5	-	½
Turnout	5	-	2
Address & Behaviour	5	-	½
Tact	5	-	½
Aptitude	5	-	½
Judgment	5	-	½
Leadership	5	-	½
General Awareness	5	-	1
Total of Interview	40	-	6
Total of Part-II	75	45%=33.5	23
Grand Total (Part-I + Part-II)	250	50%=125	116
Result		FAIL	

PETITIONER ARVIND DAVE :

Written Test	100	40%=40	64
Parade & Outdoor	75	36%	29 ½
Total of Part-I	175	45%=78.75	93 ½
Education	5	-	1
Annual remarks in service rolls	15	-	5
Rewards and punishment	10	-	10

Training	5	-	-
(Interview): Personality	5	-	2 ½
Turnout	5	-	3
Address & Behaviour	5	-	1 ½
Tact	5	-	1
Aptitude	5	-	1
Judgment	5	-	1
Leadership	5	-	1
General Awareness	5	-	2
Total of Interview	40	-	13
Total of Part-II	75	45%=33.5	29
Grand Total (Part-I + Part-II)	250	50%=125	122½
Result		FAIL	

All the three petitioners failed to secure qualifying marks and, therefore, they were not selected for promotion.

In view of the result sheet produced by the respondents I do not find any error in the decision of the respondents for not promoting the petitioners as Head Constables. The record of petitioner Shri Vijay Ram is not shown to the Court being not available today. The respondents are directed to examine the

record of Shri Vijay Ram also, as examined in case of other petitioners, and then to convey result of Shri Vijay Ram. This entire exercise is required to be done within a period of two months from today.

The writ petition is accordingly disposed of.

(GOVIND MATHUR),J.

kkm/ps.